

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

400R0209

HOUSE BILL NO. 1032

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reporting period
2 for the collection of the use tax.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-46-27 be repealed.

5 ~~10-46-27. Every retailer required or authorized, pursuant to §§ 10-46-20 to 10-46-22,~~
6 ~~inclusive, to collect the tax herein imposed, shall pay to the secretary of revenue and regulation~~
7 ~~the amount of such tax as provided in §§ 10-45-27 and 10-45-28.~~

8 Section 2. That chapter 10-46 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any person required to pay or any retailer required or authorized, pursuant to this chapter,
11 to collect the tax imposed by this chapter shall, except as otherwise provided in this section, file
12 a return, and pay any tax due, to the Department of Revenue and Regulation on or before the
13 twentieth day of the month following each monthly period. The return shall be filed on forms
14 prescribed and furnished by the department.

15 If the person or retailer remits the tax by electronic transfer to the state, the return shall be



1 filed by electronic means on or before the twenty-third day of the month following each monthly
2 period and the tax remitted on or before the second to the last day of the month following each
3 monthly period.

4 The secretary may require or allow a person or retailer to file a return, and pay any tax due,
5 on a basis other than monthly. The return and remittance is due the last day of the month
6 following the reporting period, or at a time otherwise determined by the secretary.

7 The secretary may grant an extension of not more than five days for filing a return and
8 remittance. However, the secretary may grant an extension for remitting the tax to a qualified
9 business as provided in §§ 10-45-99 to 10-45-107, inclusive, for six months.

10 Unless an extension is granted, any penalty or interest under § 10-59-6 shall be paid if a
11 return or remittance is not made on time.

12 Section 3. That § 10-46-28 be amended to read as follows:

13 10-46-28. At the time specified in ~~§ 10-46-27~~ in section 2 of this Act, the person or retailer
14 ~~shall file with the secretary of revenue and regulation a return for the preceding reporting period~~
15 ~~in such a form as may be prescribed by the secretary of revenue and regulation showing the sales~~
16 ~~price of any tangible personal property, any product transferred electronically, or services sold~~
17 ~~by the retailer during the preceding reporting period, the use, storage, or consumption of which~~
18 ~~is subject to the tax imposed by this chapter, and such other information as the secretary of~~
19 ~~revenue and regulation may deem~~ deems necessary for the proper administration of this chapter.
20 Each return shall be accompanied by a remittance of the amount of such tax for the period
21 covered by the return.

22 Section 4. That § 10-46-29 be repealed.

23 ~~—10-46-29. The secretary of revenue and regulation, if necessary to ensure payment to the~~
24 ~~state of the amount of such tax, may require returns and payments of such amounts to be made~~

1 ~~other than by the quarter. The secretary of revenue and regulation may, upon request and a~~
2 ~~proper showing of the necessity therefor, grant an extension of not more than five days for~~
3 ~~making any return and payment.~~

4 Section 5. That § 10-46-34 be amended to read as follows:

5 10-46-34. Any person who uses, stores, or otherwise consumes any property or services
6 subject to tax ~~hereunder~~ by this chapter upon which the tax ~~herein imposed~~ has not been paid,
7 either to a retailer or direct to the secretary of revenue and regulation as ~~herein~~ provided by this
8 chapter, is liable therefor, and shall, on or before the time specified in §§ ~~10-45-27 and 10-45-28~~
9 section 2 of this Act, pay the tax ~~herein imposed~~ upon all such property used by ~~him~~ the person
10 during the preceding month in such manner and accompanied by such returns as ~~the secretary~~
11 ~~of revenue and regulation shall prescribe~~ required by section 2 of this Act. All of the provisions
12 of §§ ~~10-46-27~~ section 2 of this Act and §§ ~~10-46-28~~ to 10-46-31, inclusive, with reference to
13 such returns and payments are applicable to the returns and payments ~~herein~~ required by this
14 chapter.

15 Section 6. That § 10-46-41 be amended to read as follows:

16 10-46-41. If any return required by this chapter is not filed, or if any return when filed is
17 incorrect or insufficient, and the maker or person from whom it is due fails to file a corrected
18 or sufficient return within ten days after the same is required by notice from the secretary of
19 ~~revenue~~, the secretary of revenue and regulation shall have the same power to shall determine
20 the amount due ~~as is vested in the secretary of revenue and regulation by §§ 10-45-27 and 10-~~
21 ~~45-28, or any amendment which may hereafter be made thereto~~ pursuant to § 10-59-10.